

WARREN ZONING BOARD
August 21, 2013
Minutes

The regular meeting of the Warren Zoning Board was called to order at 7:02 pm by Chairman M. Gerhardt. Also present S. Calenda, P. Attemann, Vice Chairman A. Harrington, M. Smiley and alternate A. Ellis.

Approval of Minutes July 17, 2013 meeting. It was moved by S. Calenda to accept the minutes. Second by A. Harrington. Yea, M. Gerhardt, A. Harrington, S. Calenda, P. Attemann and M. Smiley.

Administrative Matters

Discussion regarding the process of appeals.

Town of Warren Solicitor Anthony DeSisto gave a presentation to the Board with regard to the process of appealing a decision.

Chair Gerhardt stated he had a conversation with Solicitor Federico with regard to a check list which had been used in the past. This form will be updated and implemented in the future meetings. This form is expected to help in defining the standards. The board members will also be able to note the finding of facts on them.

Discussion and action relative to the Rotondo vs. Town of Warren Superior Court appeal (C.A. No. PC-2011-3415.) This case has been remanded back to the Warren Zoning Board of Review and the original decision will be modified "...The Zoning Board shall determine whether the Morrills satisfied 45-24-41(d)(2) and further indicate the findings of fact and conclusions of law in support of its decision."

Peter Skwirz representative from the Town Solicitor's office gave a brief summary of a memorandum submitted to the Town of Warren Zoning Board, this matter a dimensional variance was granted to the Morrills on April 20, 2011 and an appeal was taken to Superior Court by an abutter. Superior Court remanded this case back to the Zoning Board, the findings were incomplete as to 45-24-41(d)(2), there was not sufficient findings to show that failure in granting the variance would be cause there to more than an inconvenience. The matter was remanded solely on that finding, so the basis of your findings will be only on the transcript from that prior meeting, there will be no public hearing tonight, if you could state tonight in your motion the facts that you are using to conclude one way or the other one this issue and make a findings on that law for that issue, that will be all that will need to be done.

Chairperson Michael Gerhardt mentions there will be no public hearing. The only board members are eligible to vote on this matter are the members who were on the board at the time which include, S. Calenda, P. Attemann, A. Harrington and Chair Gerhardt. He also stated that it will take four (4) affirmative votes to affirm this decision. There being no questions or need for discussing from any of the board members Chair Gerhardt reads into the record the following Resolution:

BE IT RESOLVED BY THE WARREN ZONING BOARD OF REVIEW AS FOLLOWS: WHEREAS: On Wednesday, April 20, 2011, Kenneth and Ann Morrill applied to the Town of Warren Zoning Board of Review (hereinafter "the Board") to receive a dimensional variance; and

WHEREAS: After hearing, the Board unanimously voted to approve the Morrills' application for a variance on two conditions- that (a) the Coastal Resource Management Counsel approve the project (as it was located near a coastal feature), and (b) the Town Building Official approve that the plans would not cause rain water to runoff into a neighbor's yard; and

WHEREAS: A written decision approving the application was posted a few days after the hearing, which was missing a finding that the hardship would amount to "more than a mere inconvenience," pursuant to R.I. Gen. Laws § 45-24-41(d)(2); and

WHEREAS: The decision of the Board was subsequently appealed, and in a decision filed on June 17, 2013, the Superior Court remanded the case to the Zoning Board to make a supplementary finding on R.I. Gen. Laws § 45-24-41(d)(2); and

WHEREAS: At the April 20, 2011 hearing, Mr. Morrill testified that when a parking ban is in effect, he is forced to park on his front lawn; and

WHEREAS: At the April 20, 2011 hearing, Mr. Morrill testified that parking on his front lawn during a parking ban is ruining his lawn, and impeding travel across his lawn; and

WHEREAS: At the April 20, 2011 hearing, Mr. Morrill testified that he is in need of a place to park his vehicle indoors during inclement weather.

NOW THEREFORE, BE IT RESOLVED BY THE WARREN ZONING BOARD OF REVIEW AS FOLLOWS:

SECTION 1: The hardship suffered by the Morrills', as testified to at the April 20, 2011 hearing, amounts to more than a mere inconvenience as defined under R.I. Gen. Laws § 45-24-41(d)(2). The written decision recorded at Book 777, Page 24 of the Warren Land Evidence record will be supplemented accordingly.

Old Business None

New Business

Application #13-35; Jonathan Smith, owner and Dennis O'Keefe, applicant; 16 Shell Road; plat map 16, lot 202, owner/applicant requests a *Variance* from section 32-89 of the Warren Zoning Ordinance to replace an existing cesspool with an advanced OWTS to be located within 150 feet of a water body.

Dennis O'Keefe the applicant was present to give presentation of Application 13-35 requesting a *Variance* from section 32-89 of the Warren Zoning Ordinance to replace an existing cesspool with an advanced OWTS to be located within 150 feet of a water body on their summer home. There is a well located east of the property line which services four houses.

Public Comment – NONE

It was moved by S. Calenda to approve Application #13-35, applicant Dennis O'Keefe requesting to replace the existing cesspool with an advanced OWTS to be located within 150 feet of a water body, with a finding of fact, we have determined it will not be a hazard or nuisance to the area, the public has no objection and it will satisfy the standards, conditional on CRMC and DEM approvals. Second by A. Harrington. Yea, M. Gerhardt, A. Harrington, S. Calenda, P. Attemann and M. Smiley.

Application #13-36; Charlotta E. Anton, owner and Chris Manlove/Swanson Construction, applicants; 66 Brownell Street; plat map 16 lot 19, owner/applicant requests a *Variance* from section 32-77 & 32-77.1 of the Warren Zoning Ordinance to demolish existing single family dwelling and replace with a new single family dwelling that will exceed lot coverage and violate the front and side yard setbacks.

Chris Manlove of Swanson Construction, 5 Maynard St, Attleboro, MA representing Charlotta E. Anton was present to give testimony for Application #13-36 requesting a Variance from sections 32-77 & 32-77.1 of the Warren Zoning Ordinance to demolish existing single family dwelling and replace with a new single family dwelling that will exceed lot coverage and violate the front and side yard setbacks. Mr. Manlove stated this building was built in the 1920's. Their intention is to stay as close to the original blueprint as possible. They would like to keep the western and southeastern corner the same. They have spoken with the abutters and to their knowledge there was no opposition.

Public Comment – NONE

It was moved by S. Calenda to approve Application #13-36, residence being 66 Brownell St, Warren, RI, the applicant seeking relief from the west side yard variance of 29 feet, east side yard variance of 25 feet, front variance of 39 feet and rear variance of 15 feet, lot coverage variance of approx. 18 percent and frontage variance of 100 feet. The application and applicant have been presented and shown that the lot is a 5,000 sq. foot lot is buildable even although the lot 5,982. The footprint of the existing building is not going to be changed except for an area where they will intrude 6'3" of the property line. A finding of fact the application should be approved because it would be beyond just a mere inconvenience if the application were not allowed and it were to stand at its present form. It is also shown that the application does not prove to be a nuisance and it is consistent with the existing area. Second by M. Smiley. Yea, M. Gerhardt, A. Harrington, S. Calenda and M. Smiley. Nay- P. Attemann. Vote passes 4-1.

Application #13-37; A & R ONE, LLC, owner and Traffords, Inc., applicant; 285 Water Street; plat map 4, lot 155, owner/applicant requests a *Variance* from section 32-115A and 31-113(4) of the Warren Zoning Ordinance to replace the existing free-standing sign with a sign that is larger than what is permitted and to use a material that is not permitted (steel.)

Bruce Cox, Esq. representing A & R ONE, LLC, owner and Traffords, Inc., applicant was present to give testimony for application #13-37, A & R ONE, LLC, owner and Traffords, Inc., applicant; 285 Water Street; plat map 4, lot 155, owner/applicant requests a *Variance* from section 32-115A and 31-113(4) of the Warren Zoning Ordinance to replace the existing free-standing sign with a sign that is larger than what is permitted and to use a material that is not permitted (steel.)

Also present was Russell Goyette owner of Traffords, Inc. explained that customers have complained in regard to the lack of visibility of the sign and due to finances is able to upgrade the sign now.

Mr. Clark of Clark Signs, 60 Hopeworth Ave, Bristol, RI, gave testimony to the materials and size of the projected sign. He explained the sign will be black beauty sandblast affixed to stainless steel with epoxy resin glue and covered with black a gel coat which will protect it from the UV rays and there are two layers. The sign panel will be 49" x 45" x 52", the "sail" is 49" from the top of mast to bottom. The sail overall will be 7.08 sq. feet.

Public Comment

John Ziak, 303 Water St, Warren, would like to know how the size of the proposed sign compares to the existing sign. He would also like to know the position, placement and he wouldn't want it to become a safety issue.

Mr. Goyette stated that they would be placing the sign in one of the parking spaces so it would not protrude any further out. He also stated that both signs are 6 feet.

Mr Cox requests a continuance to the September 18, 2013 meeting.

It was moved by A. Harrington to continue Application #13-37; A & R ONE, LLC, owner and Traffords, Inc., applicant; 285 Water Street, to the September 18, 2013 as requested by the applicant, conditional on returning with a site plan with the revised calculations of dimension of the total exterior features and placement. Second by S. Calenda. Yea, M. Gerhardt, A. Harrington, S. Calenda, P. Attemann and M. Smiley.

Application #13-38; Fernando Gonsalves, owner and applicant; 30 Cherry Street; plat map 14, lot 9, owner/applicant requests a *Special Use Permit* from section 32-131 of the Warren Zoning Ordinance to establish an “in-law apartment” in an existing single family dwelling.

Fernando Gonsalves owner and applicant present to give testimony for the Special Use Permit to establish and “in-law apartment” in an existing single family dwelling. Mr. Gonsalves explained when he purchased this property the basement was partially finished. He didn't realize he needed permits when he was replacing an existing stove and sink until a neighbor complained. He would like to someday have his mother live in the in-law apartment.

Public Comment – NONE

Fernando Gonsalves owner and applicant requests the withdrawal of this application at this time without prejudices.

It was moved by A. Harrington to grant the withdrawal of Application #13-38; Fernando Gonsalves, owner and applicant; 30 Cherry Street; plat map 14, lot 9, requesting a *Special Use Permit* from section 32-131, without prejudices with the right to renew at any time in the future when necessary to be compliant with the in-law apartment. Second by S. Calenda. Yea, M. Gerhardt, A. Harrington, S. Calenda, P. Attemann and M. Smiley.

Application #13-39; June Gibbs, Trustee, owner and June Gibbs, applicant; 56 Shore Drive; plat map 17, lots 33, 32 & 31, owner/applicant requests a *Special Use Permit* from section 32-74 of the Warren Zoning Ordinance to construct an addition to an existing garage thereby expanding a legal non-conforming use and structure.

Thomas Wright, Esq. representing Application #13-39; June Gibbs, Trustee, owner and June Gibbs, applicant; 56 Shore Drive; plat map 17, lots 33, 32 & 31, owner/applicant requests a *Special Use Permit* from section 32-74 of the Warren Zoning Ordinance to construct an addition to an existing garage thereby expanding a legal non-conforming use and structure.

June Gibbs owner and applicant gave testimony to the reason for her request. She stated she needed the additional garage space to store her sunfish and trailer. She has currently been storing it in a neighbor's garage.

MJM Construction was also available to give testimony.

Public Comment – NONE

Application #13-40; June Gibbs, Trustee, owner and June Gibbs, applicant; 56 Shore Drive; plat map 17, lots 33, 32 & 31, owner/applicant requests a *Variance* from section 32-88 (c) of the Warren Zoning Ordinance to construct an addition to an existing garage that will be located in a front yard area which is not permitted.

Public Comment – NONE

Thomas Wright Esq, requested a withdrawal of Application #13-39, *Special Use Permit* from section 32-74 and Application #13-40, *Variance* from section 32-88 (c) without prejudices with a new application for a variance to be heard at the September 18, 2013 meeting.

It was moved by A. Harrington to accepted the request to withdraw Application #13-39, requesting a *Special Use Permit* from section 32-74 of the Warren Zoning Ordinance to construct an addition to an existing garage thereby expanding a legal non-conforming use and structure and Application #13-40, requesting a *Variance* from section 32-88 (c) of the Warren Zoning Ordinance to construct an addition to an existing garage that will be located in a front yard area which is not permitted, without prejudices, to resubmit with a waiver of the application fee, a application for variance to be determined by the applicant and Building Official. Second by P. Attemann. Yea, M. Gerhardt, A. Harrington, S. Calenda, P. Attemann and M. Smiley.

Administrative Matters

Items for future agendas - NONE

Adjourn It was moved by A. Harrington to adjourn the meeting at 9:13pm. Second by M. Smiley. Yea - M. Gerhardt, A. Harrington, S. Calenda, P. Attemann and M. Smiley.

Respectfully submitted,

Rhonda Lee Fortin